

## **REMARKS/ARGUMENTS**

Claims 6, 8, 10, 16, 18 and 23 are now pending in the present application. Claims 6, 16 and 23 have been amended, and Claims 1-4, 7, 9, 11-14, 17, 19-21 and 24-25 have been cancelled, herewith. Reconsideration of the pending claims is respectfully requested.

Applicants request entry of this amendment after final rejection as placing this case in condition for allowance or better form for appeal. In addition, no new search would be caused as a result of entering this amendment, since Claims 6, 16 and 23 are merely being amended to be in independent form, and thus such amendment to the claim form does not change the scope of these Claims 6, 16 and 23.

### **I. 35 U.S.C. § 103, Obviousness**

Claims 1, 2, 6, 8-10, 11, 16, 18, 19, 20, 23 and 25 stand rejected under 35 U.S.C. § 103 as being unpatentable over Caulfield et al. (U.S. Patent No. 6,421,943), hereinafter “Caulfield”, in view of Navarre et al. (U.S. Patent No. 6,205,482), hereinafter “Navarre”, in further view of Batra (U.S. Patent No. 6,105,067), hereinafter “Batra”. This rejection is respectfully traversed.

With respect to Claims 1, 2, 9, 11, 19, 20 and 25, this rejection is now moot as Applicants have cancelled such claims herewith, without prejudice or disclaimer.

With respect to Claim 6, such claim recites “wherein each one of the retrieval clients generates a protocol module to form a plurality of protocol modules, and wherein each one of the protocol modules retrieves entitlement information from a given one of the entitlement information providers that it is associated with using a provider specific protocol that is compatible with the given one of the entitlement information providers”. As can be seen, per the features of Claim 6, there are multiple retrieval clients, and each one of the retrieval clients generates a protocol module. In addition, *each one of these protocol modules retrieves entitlement information* from a given one of the entitlement information providers using compatible provider specific protocol. Thus, there are several characteristics associated with the claimed protocol modules: (1) they are *generated* by the retrieval clients, (2) they are used in the actual *retrieval* of entitlement information, and (3) they *use* a provider specific protocol that is compatible with the entitlement information providers.

In rejecting Claims 1 and 6, the Examiner asserts that Batra's 'software threads' are equivalent to the claimed 'retrieval clients', and that Batra's 'messages' and Navarre's 'messages' are equivalent to the claimed 'protocol modules'. Applicants urge clear error in such assertion, as will now be shown in detail.

Neither Batra's 'messages' nor Navarre's 'messages' are equivalent to the claimed 'protocol modules', since they do not perform an information *retrieval* operation. Restated, these messages are not a module that performs an active operation or step, but instead are mere passive data that is transmitted. By analogy to a computer's internal workings, the claimed modules are somewhat akin to a data processor or CPU that actually performs operations/steps, whereas the described 'messages' are somewhat akin to information/data stored in memory. One is active (the claimed protocol modules), whereas the other is passive (message/data). The transmission of messages across a connection does not teach an active step of retrieving information from a provider by a protocol module that is generated by a retrieval client that itself is generated as a part of an information retrieval step. Instead, the cited Batra reference merely states that messages are 'sent and received' (Batra, col. 7, line 11). Similarly, the Navarre messages are also merely passive data that is *transmitted* (Navarre col. 3, line 25), and such messages are not described as *retrieving* information or being generated by a retrieval client, where such retrieval client is itself generated as a sub-step of retrieving an entitlement information item from an entitlement information provider.

While it may be argued that the Batra 'software threads' retrieve information, such 'software threads' are already alleged as being equivalent to the claimed 'retrieval client', and to assert that the Batra 'software thread' is equivalent to the claimed 'protocol module' that is generated by a retrieval client, in addition to being equivalent to the claimed 'retrieval client', would be impermissible double-counting, where a single taught element is impermissibly alleged to read on two different and distinctly claimed elements.

Quite simply, the combined teachings of the cited references do not teach the two-pronged generation of *both* a retrieval client *and* a protocol module as a part of an information retrieval operation. This two-pronged generation process of both a retrieval client and a protocol module advantageously provides a common access point having a common interface that is accessible by a wide variety of information seekers (by use of the generation of the retrieval clients in response to receiving a common request), and yet can accommodate a wide variety of

differing protocols that may be used by the differing destinations for where the information is ultimately retrieved from (by use of the generation of the protocol modules, which can thereby accommodate unique/specific protocols that are used by the entitlement information providers), as further described in the Specification at page 17, lines 18 – 28 and page 23, line 3 – page 24, line 2 and Figure 8B.

Thus, it has been shown that the described ‘messages’ are merely passive elements that do not perform any type of actual retrieval of information, whereas the claimed ‘protocol modules’ are generated by a retrieval client that itself is generated, and then used to perform an actual step of retrieving information. Therefore, Claim 6 has been erroneously rejected due to this *prima facie* obviousness deficiency.<sup>1</sup>

Applicants traverse the rejection of Claims 8 and 10 for reasons given above with respect to Claim 6 (of which Claims 8 and 10 depend upon).

Applicants traverse the rejection of Claims 16 (and dependent Claim 18) and 23 for similar reasons to those given above with respect to Claim 6.

Therefore, the rejection of Claims 1, 2, 6, 8-10, 11, 16, 18, 19, 20, 23 and 25 under 35 under 35 U.S.C. § 103 has been overcome.

## **II. 35 U.S.C. § 103, Obviousness**

Claims 3, 12-13 and 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Caulfield in view of Navarre in view of Batra, in further view of Lau (U.S. Publication No. 2002/0133537), hereinafter “Lau”. This rejection is respectfully traversed, as such claims have been cancelled herewith, without prejudice or disclaimer.

Therefore, the rejection of Claims 3, 12-13 and 21 under 35 under 35 U.S.C. § 103 has been overcome.

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<sup>1</sup> In rejecting claims under 35 U.S.C. Section 103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. *Id.* If the examiner fails to establish a *prima facie* case, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In the absence of a proper *prima facie* case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. *See In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

**III. 35 U.S.C. § 103, Obviousness**

Claims 4, 14 and 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Caulfield in view of Navarre in view of Batra, in further view of Lau, in further view of Zhu et al. (U.S. Patent No. 6,928,526), hereinafter “Zhu”. This rejection is respectfully traversed, as such claims have been cancelled herewith, without prejudice or disclaimer.

Therefore, the rejection of Claims 4, 14 and 24 under 35 U.S.C. § 103 has been overcome.

**IV. 35 U.S.C. § 103, Obviousness**

Claims 7 and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Caulfield in view of Navarre in view of Batra, in further view of Zhu. This rejection is respectfully traversed, as such claims have been cancelled herewith, without prejudice or disclaimer.

Therefore, the rejection of Claims 7 and 17 under 35 U.S.C. § 103 has been overcome.

**V. Conclusion**

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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